IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7057 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASHAPURI SAW MILLS & COMPANY

Versus

CENTRAL BOARD OF DIRECT TAXES

Appearance:
MR SN SOPARKAR for Petitioner
MR AKHIL KURESHI WITH MR MR BHATT for Respondent No. 1, 2

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE C.K.BUCH

Date of decision: 17/02/2000

ORAL JUDGEMENT

The challenge in this petition, under Article 226 of the Constitution of India, is against the order of the

respondent No.1 dated 1.3.93, whereby, the application for condonation of delay in granting refund to the petitioner under section 119(2)(b) of the Income Tax Act, 1961 (IT Act), came to be rejected.

We have heard the learned advocates appearing for the parties. We have also gone through the correspondence exchanged between the assessee and the authorities. Considering the circular No.503 of Central Board of Direct Taxes (CBDT), dated 6.2.88, addressed to all the Chief Commissioners, the respondent is required to be directed to entertain the claim for refund for the assessment orders of 1984-85 and 1985-86, though the claim for refund is belated and decide the merits of the refund claim for each assessment year in accordance with law, uninfluenced by the delay, in view of the circular of the CBDT, within a period of three months from the date of receipt of writ from his Court. Accordingly, the impugned order is quashed and set aside. Respondent No.2 is directed to deal with the same and decide afresh, after giving an opportunity of hearing to assessee. Rule is made absolute to the aforesaid extent, with no order as to costs.

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(vjn)